



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,442	07/06/2001	Joseph Guy Reithmeyer	9340.894US01	4224

23552 7590 01/02/2003

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
----------	--------------

3634

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/900,442

Applicant(s)

REITHMEYER ET AL.

Examiner

Gregory J. Strimbu

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 16-39, 45 and 46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 40-44 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4-6. 6) ☐ Other: .

Art Unit: 3634

It should first be noted that the applicant's assumption regarding the claims in Group III is correct. The claims in Group III should have been indicated as 16-25.

Election/Restrictions

Claims 16-39, 45 and 46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 8.

Claim Rejections - 35 USC § 112

Claims 1-15 and 40-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "there between" on lines 7-8 of claim 1 are grammatically awkward and confusing. Recitations such as "a slab" on line 10 of claim 1 render the claims indefinite because it is unclear if the applicant is referring to the slab set forth above or is attempting to set forth another slab in addition to the one set forth above. Recitations such as "the peripheral frame" on lines 4-5 of claim 40 render the claims indefinite because they lack antecedent basis. Recitations such as "said location comprising a shim and a hinge" on line 7 of claim 40 render the claims indefinite because it is unclear how a location can comprise a hinge and a shim. Recitations such as "sealing means" on line 10 of claim 40 render the claims indefinite because the applicant has attempted to use a "means" clause to recite a claim element as a means

Art Unit: 3634

for performing a specified function. However, since no function is specified by the word(s) preceding or following "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fehr in view of Headrick, Hellstrom et al. and Snyder. Fehr discloses an entryway system that can maintain a sealed system to exterior weather when closed, the system comprising an entryway comprising a frame 15, 16, 17, 19 comprising a peripheral weather strip having at a minimum a resilient weather strip 5 positioned substantially on the entirety of both sides and the bottom of the frame, the frame bottom additionally comprising a threshold member 15 joined to the frame positioned therebetween, the threshold forming a tank 15e such that the threshold can accumulate and drain environmental water to the exterior of the frame, and a slab D1 mounted on the frame with a hinge member (not numbered, but shown in figure 3). Fehr is silent concerning an end cap corner key and an adjustable hinge.

Art Unit: 3634

However, Headrick discloses an extruded aluminum sill member 12 comprising a end cap corner key 36 for connecting the sill member to a frame member 52.

It would have been obvious to one of ordinary skill in the art to provide Fehr with a sill member with a construction and a end cap corner key, as taught by Headrick, to increase the strength of the sill member and to provide a better connection between the sill member and the frame, respectively.

Additionally, Hellstrom discloses a vertically adjustable hinge.

It would have been obvious to one of ordinary skill in the art to provide Fehr with a hinge, as taught by Hellstrom, to provide an easy means for vertically adjusting the height of the door with respect to the frame.

Finally, Snyder discloses the use of a shim 19 for adjusting a position of hinge 10.

It would have been obvious to one of ordinary skill in the art to provide Fehr with a shim, as taught by Snyder, to horizontally adjust the position of the door with respect to the door frame.

Claims 4-7 and 40-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fehr, Headrick, Hellstrom et al. and Snyder as applied to claims 1-3 and 8-13 above, and further in view of Taber. Taber discloses a sealing means comprising a foamed polymeric seal 22.

Art Unit: 3634

It would have been obvious to provide, Fehr, as modified above with a sealing means, as taught by Taber, to ensure that the frame members of the system are sealingly engaged.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fehr, Headrick, Hellstrom et al. and Snyder as applied to claims 1-3 and 8-13 above. Fehr, as modified above, is silent concerning the specific adjustment range of the hinge.

However, one of ordinary skill in the art is expected to routinely experiment with parameters so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been no more than an obvious matter of engineering design choice, as determined through routine experimentation and optimization, for one of ordinary skill to provide the adjustable hinge with a range of adjustment of 0.2 to 10 mm to more accurately position the door within the door frame.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Simonton et al., Burrous et al. and De Zen are cited for disclosing an entryway system. McNeese, King, Kurtz, Zaleskie and Russo are cited for disclosing the use of shims to adjust the position of a hinge.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-

Art Unit: 3634

305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a long horizontal flourish extending to the right.

Gregory J. Strimbu
Primary Examiner
Art Unit 3634
December 30, 2002